

SENATE BILL NO. 101

INTRODUCED BY J. BRUEGGEMAN

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO WATER AND WASTEWATER TREATMENT PLANT OPERATORS; ALLOWING CERTIFICATION BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR WASTEWATER COLLECTION SYSTEM OPERATORS; AMENDING SECTIONS 37-42-102, 37-42-104, 37-42-202, 37-42-301, 37-42-302, 37-42-303, AND 37-42-304, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-42-102, MCA, is amended to read:

"37-42-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of environmental review provided for in 2-15-3502.

(2) "Certificate" means a certificate of competency issued by the department, stating that the operator holding the certificate has met the requirements for the specified operator classification of the certification program.

(3) "Community water system" means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents.

(4) "Council" means the water and wastewater operators' advisory council provided for in 2-15-2105.

(5) "Department" means the department of environmental quality provided for in 2-15-3501.

(6) "Industrial waste" means any waste substance from the processes of business or industry or from the development of a natural resource, together with any sewage that may be present.

(7) "Industrial waste discharge system" means a system that discharges industrial waste into state waters.

(8) "Nontransient noncommunity water system" means a public water system, as defined in 75-6-202, that is not a community system and that regularly serves at least 25 of the same persons for at least 6 months a year.

(9) "Operator" means the person in direct responsible charge of the operation or maintenance of a water treatment plant, water distribution system, ~~or~~ wastewater treatment plant, or wastewater collection system.

(10) "State waters" means the term as defined in 75-6-102.

(11) "Wastewater collection system" means a system of collection of any combination of sewage, industrial waste, or other waste that conveys wastewater from the premises of the wastewater system user by means of piping to a wastewater treatment plant.

~~(11)~~(12) "Wastewater treatment plant" means a facility that:

(a) is designed to remove solids, bacteria, or other harmful constituents of sewage, industrial waste, or other wastes; and

(b) is part of either an industrial waste discharge system or a public sewage system as defined in 75-6-102.

~~(12)~~(13) "Water distribution system" means that portion of the water supply system that conveys water from the water treatment plant or other supply source to the premises of the consumer and that is part of a community water system or a nontransient noncommunity water system.

~~(13)~~(14) "Water supply system" means a system of pipes, structures, and facilities through which water is obtained, treated, sold, distributed, or otherwise offered to the public for household use or use by humans and that is part of a community water system or a nontransient noncommunity water system.

~~(14)~~(15) "Water treatment plant" means that portion of the water supply system that alters either the physical, chemical, or bacteriological quality of the water and renders it safe and palatable for human use."

Section 2. Section 37-42-104, MCA, is amended to read:

"37-42-104. Classification of treatment plants and distribution systems. The department shall classify all water treatment plants, water distribution systems, ~~and~~ wastewater treatment plants, and wastewater collection systems with due regard to the size, type, and physical conditions affecting ~~such the water treatment~~ plants and ~~distribution~~ systems, with regard to the character of wastewaters to be treated and other physical conditions affecting ~~such waste~~ wastewater treatment plants, and according to the skill, knowledge, and experience that the operator in responsible charge must have to successfully supervise the operation of ~~such~~ water treatment plants, and water distribution systems, ~~and such~~ wastewater treatment ~~facilities~~ plants, and wastewater collection systems in order ~~so as~~ to protect the public health and prevent unlawful pollution."

1 **Section 3.** Section 37-42-202, MCA, is amended to read:

2 **"37-42-202. Rulemaking power -- examinations -- continuing education requirements.** (1) The
3 department shall adopt rules necessary to carry out this chapter. The rules shall include but are not limited to
4 provisions establishing the basis for classification of systems and treatment plants under 37-42-104, provisions
5 establishing qualifications of applicants, procedures for examination of candidates, and other provisions
6 necessary for the administration of this chapter.

7 (2) The department shall hold at least one examination each year, at a time and place designated by the
8 department, for the purpose of examining candidates for certification.

9 (3) The department may establish reasonable continuing education requirements for certified water and
10 wastewater operators."

11
12 **Section 4.** Section 37-42-301, MCA, is amended to read:

13 **"37-42-301. Department to certify operators.** (1) The department shall certify persons as to their
14 qualifications to supervise successfully the operation of ~~such water and~~ treatment plants, wastewater treatment
15 plants, wastewater collection systems, and water distribution systems.

16 (2) In granting the certificates, the department shall give due regard to the interest of this state in
17 protecting the drinking water supplies and the quality of its water."

18
19 **Section 5.** Section 37-42-302, MCA, is amended to read:

20 **"37-42-302. Unlawful to operate plant or system without certified operator -- department to issue**
21 **temporary certificates -- exception.** (1) Except as provided in subsection (3), it is unlawful for a person, firm,
22 or corporation, both municipal and private, operating or maintaining a wastewater collection system that regularly
23 serves at least 3,300 year-round residents, a wastewater treatment plant, a water treatment plant, or a water
24 distribution system to operate or maintain the plant or system ~~unless the competency of the operator is certified~~
25 ~~to by the department under this chapter~~ without an operator certified under this chapter in direct responsible
26 charge of the operation or maintenance.

27 (2) Except as provided in subsection (3), it is unlawful for a person to perform the duties of an operator
28 without being certified under this chapter.

29 (3) The prohibitions in subsections (1) and (2) do not pertain to a water distribution system that:

30 (a) does not contain a treatment facility;

(b) obtains all of its water from a public water supply system but is not owned or operated by the owner or operator of that public water supply system; and

(c) does not sell water.

(4) For good cause shown, the department may issue temporary certificates that are valid for up to 1 year."

Section 6. Section 37-42-303, MCA, is amended to read:

"37-42-303. Operator of treatment plant or distribution system to be certified -- exemption. (1) Water and Wastewater collection systems that serve at least 3,300 year-round residents, water treatment plants, wastewater treatment plants, and water distribution systems, whether publicly or privately owned, must be under the supervision of an operator whose competency is certified to by the department in a grade corresponding to the classification of that portion of the water or wastewater supply or collection system to be supervised.

(2) ~~However, this~~ This chapter does not prevent a governmental agency, corporation, or individual from continuing to employ in this capacity a person in responsible charge of the operation of ~~such the~~ works on July 1, 1967. Certificates of proper classification may be issued without examination to the person or persons certified by the governing board or owner to have been in responsible charge of the water treatment plants, and wastewater treatment plants, wastewater collection systems, and water distribution systems on July 1, 1967. A certificate ~~so issued will be~~ under this subsection is valid only in that plant or system."

Section 7. Section 37-42-304, MCA, is amended to read:

"37-42-304. Application for operator's certificate -- fee. A person desiring to engage in the operation of a wastewater collection system that regularly serves at least 3,300 year-round residents, a water treatment plant, a water distribution system, or a wastewater treatment plant shall first file an application with the department for a proper certificate. The department shall charge a fee of the same amount as the license cost, except that the department shall reduce the fee by the amount that the cost of processing the application is offset by federal funds received. The department may not act on an application until the fee has been paid."

NEW SECTION. Section 8. Effective dates. (1) Except as provided in subsection (2), [this act] is effective October 1, 2009.

(2) [Sections 5 and 6] are effective July 1, 2010.

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